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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,912	01/22/2002	Ichiro Onuki	1232-4408US1	6824

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EXAMINER

HO, TUAN V

ART UNIT PAPER NUMBER

2615

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/050,912	ONUKE, ICHIRO	
	Examiner	Art Unit	
	Tuan V. Ho	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-46 is/are pending in the application.
- 4a) Of the above claim(s) 47-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39,40 and 42-44 is/are rejected.
- 7) ☒ Claim(s) 40,45 and 46 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 08/996,287.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's election with traverse of the invention of Group I, claims 39-46 in the reply filed on 9/22/05 is acknowledged. Thus, claims 47-49 are withdrawn from further consideration on the merits.

The traversal is on the ground(s) that 1)" separate searches for Group I-II claims are not necessary" and 2) there is no serious burden to the examiner for examining claims 39-49. This is not found persuasive because: 1) the search for Group I, claims 39-46 is involved in class 348/222.1; where the search is focused on image processing including exposure processing; and the search for Group II, claims 47-49 is focused on image synthesis; where the image synthesis generates a special effect which is completely different from the image processing; and 2) The Applicant fails to show any evidence that does not cause any serious burden to the examiner for searching the claims.

The requirement is still deemed proper and is therefore made FINAL.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the

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invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 39, 40, 42 and 43 are rejected under 35

U.S.C. 102(e) as being anticipated by Ashida (US 6,833,864).

With regard to claim 39, Ashida discloses in Figs. 1 and 2, an image capturing apparatus that comprises the image sensing means (solid-state image sensor 16, col. 3, lines 6-15), photometry means (photometry circuit of digital processing part 20, col. 4, lines 59-67), luminous exposure adjustment means (a combination of diaphragm 12 and electronic shutter of image sensor 16, col. 4, lines 59-67), control means (CPU 34 controls sensor 16 so as to obtain first and second frames that are stored in memories 22 and 24, col. 3, lines 35-65 and col. 4, lines 56-67), and image synthesis means (composition circuit 26, col. 3, lines 35-49).

With regard to claim 40, Ashida discloses in Figs. 1 and 2, an image capturing apparatus that comprises the photometry means performs photometry on each of a plurality of divided areas of an image sensed by said image sensing means (the photometry circuit of digital processing part 20 inherently performs photometry on the whole image sensor 16; thus, the photometric

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circuit performs photometry on color filters RGB of image sensor 16 inherently divided in group color filters, col. 3, lines 33-49).

With regard to claim 42, Ashida discloses in Figs. 1 and 2, an image capturing apparatus that comprises the luminous exposure adjustment means adjusts the luminous exposure by changing exposure time (electronic shutter of image sensor 16 changes charge accumulation time in image sensor 16, col. 4, lines 59-67).

With regard to claim 43, Ashida discloses in Figs. 1 and 2, an image capturing apparatus that comprises the luminous exposure adjustment means adjusts the luminous exposure by changing aperture of an iris diaphragm (diaphragm 12 adjusts luminous exposure by varying aperture of an iris).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ashida in view of Viliesid (US 5,995,145).

Ashida discloses the same subject matter as discussed with respect to claim 39, except that the luminous exposure adjustment means adjusts the luminous exposure using an electrochromic element.

Ashida does not explicitly disclose any luminous exposure adjustment means adjusts the luminous exposure using an electrochromic element; however, Viliesid teaches using an LCD shutter in an image capturing apparatus; where LCD shutter inherently includes electrochromic element (col. 9, lines 22-44).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the electronic shutter of Ashida with LCD shutter 52 of Viliesid so as to obtain a luminous exposure adjustment means including electrochromic element. That is because the replacement of the electronic shutter with the LCD shutter of Viliesid would allow a user to control high light intensity of a specific area on the image sensor (Col. 3, lines 33-45).

4. Claims 41, 45 and 46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten

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in independent form including all of the limitations of the base claim and any intervening claims.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suzuki discloses an electronic camera that comprises a photometric device.

Utagawa discloses an image processing apparatus that comprises photometric device.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN HO whose telephone number is (571) 272-7365. The examiner can normally be reached on Mon-Fri from 7AM to 4PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is (572) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is (571) 272-2600.

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TUAN HO

Primary Examiner

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